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# CIVIL LIBERTIES

REPORTER

SUMMER 2024

**ACLU**

AMERICAN CIVIL LIBERTIES UNION

New Jersey

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## DECARCERATION

### How The Clemency Project and a Historic Executive Order Will Help Address Injustice in New Jersey

**O**n February 22, we launched The Clemency Project as part of a larger decarcerative vision that centers racial and social justice and reimagines the criminal legal system as we know it. More than a year in the making, The Clemency Project focuses on leveraging categorical clemency, a process that allows governors and



other executive authorities to consider holistic injustices that have impacted groups of people and consider relief for each person within the identified class.

Shortly after, on June 19, Governor Murphy issued a historic executive order creating an advisory board to review petitions for pardons and commutations, specifically expediting the process for people who meet specified criteria for consideration.



**Governor Phil Murphy signs an executive order launching his administration's clemency initiative on June 19 at Saint James A.M.E. Church in Newark.** CREDIT: CHRISTOPHER LOPEZ

These categories include people who committed crimes after being victims of domestic violence, sex trafficking, or other forms of sexual abuse, and

people with sentences impacted by excessive trial penalties – a reference to those who are serving significantly longer sentences because they opted

to exercise their constitutional right to a trial rather than agreeing to the prosecutor's plea deal.

To begin to repair the harms of mass incarceration, the ACLU-NJ has called on leaders across the state to adopt a holistic approach to decarceration that includes destigmatizing convictions and reducing the state's prison population, which has the worst racial disparities in the country. This executive order is an important step toward reducing New Jersey's incarcerated population while addressing systemic injustices and harsh sentences.

"Clemency is about more than mercy – it can be a tool to end mass incarceration. We built the Clemency Project to ensure we don't leave any stone unturned in the pursuit of justice. I am grateful to Governor Murphy for embracing categorical clemency as a way to address injustices in the criminal legal system. We look forward to seeing the Governor

**Continued on page 3**

## DEMOCRACY

### ACLU-NJ Hosts Primary Debate Between Democratic Candidates for U.S. Senate

**O**n May 13, before a sold-out audience at the South Orange Performing Arts Center and in partnership with Salvation & Social Justice, the League of Women Voters of New Jersey, and media partner WNYC/New Jersey Public Radio, the ACLU-NJ hosted Vote Your Values, a primary debate between the Democratic candidates running to represent New Jersey in the U.S. Senate. Moderated by WNYC's Morning Edition Host Michael Hill, it was one of the only opportunities for people to hear directly from primary candidates Patricia Campos-Medina, Larry Hamm, and Andy Kim on the most pressing issues of our time, including racial justice, immigration, climate change, and more.

For over 60 years, the ACLU-NJ has defended liberty and justice guided by the vision of a fair and equitable New Jersey for all. Central to that is ensuring our democracy works. The ACLU-NJ model of integrated advocacy – simultaneously utilizing impact litigation, policy advocacy, and strategic communications to bring about systemic change – includes engaging in

political moments and educating voters. Importantly, this debate surfaced policy differences between the candidates so voters could make informed decisions.

New Jersey has one of the most comprehensive civil rights records in the country. We must lead by example and show the nation what we can achieve when we affirm and advance the very best of our democracy. Empowering New Jerseyans to vote their values is essential to that mission, and that's what makes hearing from candidates so crucial.

We deserve a democracy that works for all of us – one that is not just focused on policies for the few, but a thriving future for the many. New Jerseyans demand and deserve nothing less. This debate was a step in that direction. As we face some of the greatest challenges to our democracy, the ACLU-NJ will continue to lead with all tools to ensure our state and nation live up to our ideals. ■

*The debate can be viewed in its entirety on the ACLU-NJ's YouTube channel and Facebook page.*



**From left to right, Michael Hill (WNYC), Charles Boyer (Salvation & Social Justice), Patricia Campos-Medina, Larry Hamm, Andy Kim, Jesse Burns (League of Women Voters of New Jersey), and Amol Sinha (ACLU-NJ).** CREDIT: CHRISTOPHER LOPEZ

**WE MUST LEAD BY EXAMPLE AND SHOW THE NATION WHAT WE CAN ACHIEVE WHEN WE AFFIRM AND ADVANCE THE VERY BEST OF OUR DEMOCRACY.**

VOTING RIGHTS

# Why We Filed a Brief Questioning the Constitutionality of New Jersey’s Primary Ballot Design and the County Line

On March 12, we filed an amicus brief in the U.S. District Court for the District of New Jersey that argues New Jersey’s system for designing primary ballots violates voters’ constitutional rights. In the filing, we argued that the government must serve as a neutral referee in administering elections, and as the only state in the country to design ballots along county lines, New Jersey steps outside that role and distorts the democratic process.

“Every voter has a constitutional right to participate in elections free from the government’s ideological coercion,” said ACLU-NJ Legal Director Jeanne LoCicero. “When the government organizes primary ballots around the county line and gives advantageous ballot positions to certain candidates, it engages in viewpoint discrimination and erodes the power that voters wield at the polls.”

On March 29, the court agreed, issuing a ruling that held that New Jersey’s county line ballot design procedures are likely unconstitutional and prohibited their use in the June primary elections. ACLU-NJ Staff Attorney Liza Weisberg called the decision “a first – but momentous – step toward permanently overturning New Jersey’s unconstitutional primary ballot design laws and practices.”

Previously, county clerks in New Jersey were empowered to design primary ballots that gave substantial advantages to candidates who have won the endorsement of the county committees of political parties. Because voters express their political preferences by selecting candidates, the



CREDIT: RAWPIXEL.COM/SHUTTERSTOCK, INC.

ACLU-NJ argued that county clerks violate the First Amendment rights of voters when they design the ballot to privilege the viewpoints of some voters to the detriment of other voters.

Additionally, the ACLU-NJ argued that the state’s primary ballot design procedures undermine the right to vote. When the state

influences voters’ choices through preferential ballot structure, it undercuts the freedom that lies at the heart of that right. It also takes power away from voters and puts it into the hands of the county committees, making candidates accountable to county party leaders instead of their constituents. ■

STUDENTS’ & YOUTH RIGHTS FREE SPEECH & EXPRESSION

## We Have a Responsibility to Protect Student Protesters

BY AMOL SINHA, EXECUTIVE DIRECTOR

*This piece was originally published by NJ Spotlight.*

As the war between Israel and Hamas enters its eighth month, students across the country are organizing demonstrations calling for a ceasefire and urging university administrations to divest from all groups who may profit from the ongoing conflict. In New Jersey, pro-Palestinian students at colleges across the state, including Princeton and Rutgers, have also gathered in recent days, leading to the arrest of at least 13 protesters by Princeton campus police on April 29. This was in stark contrast to a reprieve at Rutgers on May 2, where, instead of responding with police force, university officials met and negotiated with students who agreed to disband their encampment in exchange for certain demands and a commitment to ongoing talks with the university.

Some argue that colleges are within their legal rights to regulate student demonstrations by force. But, as Rutgers demonstrated, even if colleges and universities can disperse protests by arresting students, that doesn’t mean they should.

The ACLU has defended the First Amendment right to protest for more than a century. In that time, we’ve seen students at colleges and universities around the nation gather by the thousands to publicly exercise their right to free speech and expression. College campuses are a proven ground zero for protest, having hosted demonstrations during some of the most challenging inflection points of American history.



In 1964, 796 students were arrested at UC Berkley for holding a sit-in supporting free speech. In 1970, students at Kent State protested U.S. involvement in the Vietnam War, and then just 10 days later, students at Jackson State protested against widespread racial injustice — tragically, students at both schools were met with deadly force, and six people were killed. In 1984, students at Columbia occupied administrative offices as part of larger protests urging the university to divest from South Africa during apartheid — and it was that very same building, Hamilton Hall, that students overtook once again. In response, students were swarmed by NYPD at Columbia and other New York City schools, with allegations that officers pepper-sprayed and used force against students, making nearly 300 arrests at schools across the city.

Regardless of whether one agrees with the views expressed by these students,

one thing remains constant: responding to campus protests with police aggression jeopardizes student safety, diminishes free speech, and undermines inclusive campus culture. Arresting demonstrators only serves to escalate an already emotionally charged environment, not defuse it.

While school administrators have the power to enforce content-neutral regulations to ensure school business can carry on, any use of police to enforce such policies carries with it many risks and collateral consequences, including disproportionate harm on Black and brown students.

There are concrete ways in which colleges and universities can live up to their values, maintain student safety and protect free expression.

First, schools must ensure that they protect all students from censorship, violence, harassment and discrimination.

Second, it’s imperative that colleges and universities resist all pressure — whether from politicians, donors, or other stakeholders — to address demonstrations with force or impose harsh or Draconian punishments on students, even if their opinions are expressed in terms that some may find offensive.

Third, administrators must do whatever they can to avoid deploying police officers in response to student protests. As Rutgers demonstrated, engaging with students can help to de-escalate moments and lead to productive outcomes. Schools must realize that armed police on campus can escalate emotionally charged situations and endanger students, faculty, staff, and members of the public.

And finally, while schools can enact and enforce reasonable content-neutral policies related to campus protests, they must leave ample room and flexibility for students to express themselves. The most effective way to address campus protests is by embodying the ideals that colleges and universities should in fact value the most: fostering discourse and innovating ways to move our world forward.

University administrators must respect the foundational constitutional value of free speech — because our rights do not only apply in comfortable times. The strength of our commitment to democracy is tested in what we choose to do in times of discomfort.

History has shown college campuses to be bastions of productive dialogue and debate. This moment should not — and must not — undermine that important legacy. ■

CREDIT: LEV RADIN/SHUTTERSTOCK, INC.

VOTING RIGHTS

# Raising the Bar: The Future of Voting Rights in New Jersey and Beyond



Moderated by  
Liza Weisberg  
Staff Attorney  
ACLU-NJ

In recent years, the United States Supreme Court and federal courts around the country have retreated from the vigorous protection of voting rights, enabling widespread anti-democratic legislation and governance – from racial gerrymandering to voter suppression to election interference.

To discuss this trend, and how advocates are honing new strategies to overcome it, the ACLU-NJ hosted Raising the Bar: The Future of Voting Rights in New Jersey and Beyond, on May 22. During the virtual event, presented with generous support from Lowenstein Sandler LLP, Nissenbaum Law Group LLC, CSG Law, NJEA, Pashman Stein Walder Hayden PC, The Puffin Foundation Ltd., and Guston & Guston LLP, panelists explored the history of voting rights in the U.S., legal and legislative responses to their federal underenforcement, and opportunities and obstacles unique to New Jersey’s political landscape.

Lieutenant Governor Tahesha Way, who has served as New Jersey’s Secretary of State since 2018, opened the program with remarks on efforts to expand ballot access during her tenure and timely reminders about the importance of voting this election year.

Following her remarks, ACLU-NJ Staff Attorney Liza Weisberg moderated a panel of voting rights experts who are leading some of the most exciting, urgent, and pioneering voting rights work in New Jersey and across the country:

- Yael Bromberg, Principal, Bromberg Law LLC
- Sophia Lin Lakin, Director, ACLU Voting Rights Project
- Henal Patel, Law and Policy Director, New Jersey Institute for Social Justice
- Michael Pernick, Redistricting Counsel, Legal Defense Fund
- Caren E. Short, Director, Legal and Research, League of Women Voters of the U.S. ■

The program can be viewed in its entirety on ACLU-NJ’s YouTube channel and Facebook page.



Tahesha L. Way  
Lt. Governor



Yael Bromberg  
Bromberg Law LLC



Sophia Lin Lakin  
Voting Rights Project  
ACLU



Henal Patel  
New Jersey Institute  
for Social Justice



Michael Pernick  
Legal Defense Fund



Caren E. Short  
League of Women  
Voters of the U.S.



ACLU-NJ Executive Director Amol Sinha addresses the crowd at Governor Murphy’s executive order announcement on June 19. CREDIT: CHRISTOPHER LOPEZ

## The Clemency Project

Continued from page 1

fully exercise his executive power by pardoning and commuting the sentences of scores of people before the end of his term, demonstrating that New Jersey prioritizes people over punishment,” said ACLU-NJ Executive Director Amol Sinha.

As part of the project, ACLU-NJ attorneys are identifying and meeting

represent people sentenced with extreme trial penalties. No one should be saddled with significantly harsher punishment for exercising their constitutional right.”

The ACLU-NJ is dedicated to reducing the state’s incarcerated population. In recent years, alongside the Legislature and the Murphy admin-

**“THE CLEMENCY PROJECT IS A FOCUSED EFFORT TO MITIGATE INJUSTICE AND ADDRESS THE HARMS OF MASS INCARCERATION – AND IT MAY BE THE LAST OPPORTUNITY FOR PEOPLE TO COME HOME TO THEIR FAMILIES AND COMMUNITIES.”**

— REBECCA UWAKWE, ACLU-NJ SENIOR STAFF ATTORNEY

with currently incarcerated potential clients with lived experience in the identified categories, reviewing case files, and authoring petitions for release.

“The Clemency Project has already begun working with incarcerated survivors of domestic violence who have been denied the opportunity to express their trauma within the criminal legal system,” said ACLU-NJ Legal Director Jeanne LoCicero. “We are laying the groundwork to

istration, New Jersey has made progress, including the legalization of cannabis for adult use and the passage of the Public Health Emergency Credit law, which allowed for the early release of thousands of incarcerated people during the COVID-19 pandemic.

The Clemency Project aims to continue this decarcerative success and move New Jersey closer to being a fair and equitable state for all who call it home. ■

TRIBUTES

In honor of Carol Ann Borthwick

Steve Rathe

In memory of Adele Kleiman

Sarah Brokman

In honor of Jeanne LoCicero

Bill Singer

In memory of Joseph Fiordaliso Sr.

Jeanne Elmuccio

Felicia Thomas-Friel

Brendon Shank & Shaun Keegan

The Honorable Bill Pascrell

In memory of Steve Latimer

Ruby Cribbin

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Molly Lindermann Padillo

Julia & Jason Prizzi

In honor of Rosemarie Manger

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In honor of Vivienne Schuppe

Amy Hughes

In honor of Alexander Shalom

Nicholas & Elena Delbanco

Evelyn & Stephen Shalom

In memory of Caren S. Franzini

John Franzini

In memory of Dorothy Gatania

Janice Dabney

In honor of Carroll Anne Grece

Honorable Loretta Weinberg

In honor of Sonia Sinha

CJ Griffin

In honor of Raya Wild

Jeffrey & Susan Wild

In memory of William Johnson

Anne Bisset-Johnson

In memory of Ronald Levinsohn

Adam Levinsohn

In memory of Evelyn Witkin

Billie Emmerich

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CIVIL LIBERTIES REPORTER

Published by the American Civil Liberties Union of New Jersey, P.O. Box 32159, Newark, NJ 07102  
973-642-2086 | info@aclu-nj.org | [aclu-nj.org](http://aclu-nj.org)

ISSN: 0009-7934

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